Office-Supreme Court, U.S.
FILED
OCT 5 1984
ALEXANDER L. STEVAS,
CLERK

No. 84-298

In the Supreme Court of the United States

October Term, 1984

LAWRENCE A. SALIBRA, II,
Petitioner,

vs.

THE SUPREME COURT OF OHIO, and CHIEF JUSTICE FRANK CELEBREZZE, JUSTICE CLIFFORD BROWN, JUSTICE WILLIAM BROWN, JUSTICE ROBERT HOLMES, JUSTICE JAMES CELEBREZZE, JUSTICE RALPH LOCHER, JUSTICE A. WILLIAM SWEENEY,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

REPLY BRIEF OF PETITIONER

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Petitioner would like to briefly make a number of points in response to Respondents' Brief in Opposition.

First: The fact that the American Corporate Counsel Association (ACCA) and the Federal Bar Association (FBA) have chosen to file an amicus brief belies Respondents' claim that this is an issue of little importance. These two organizations together represent some 20,000 attorneys and certainly they would not have filed an amicus brief had they felt this issue to be trivial.

Second: Respondents persist in comparing the wrong classes of attorneys. The Ohio Rule permits the admission without examination of all corporate and federal attorneys who have practiced law for five years and have been admitted to the bar of another state except for those attorneys who have lived or practiced in Ohio for any portion of those five years. Respondents have made no effort to explain why this distinction has been made between different portions of the class of corporate and federal attorneys. Without a rational basis for that distinction the Rule is defective under the Equal Protection Clause.

Third: Respondents continue to claim that corporate attorneys have less breadth of practice than do private attorneys. That, of course, is a factual question that should not be resolved without a hearing. Furthermore, and more importantly, Respondents are clearly wrong when they imply that a typical private attorney is knowledgeable in "criminal law, domestic relations, will and estates, personal income and estate taxation, etc." (Brief in Opposition at 3). The vast majority of attorneys specialize, and, if anything, corporate attorneys probably have a broader range of practice than do private attorneys. (See Petition for Certiorari at 8 for a description of Petitioner's experience.)

Fourth: The sole goal of Rule I(9)(e) is to discourage corporate and federal attorneys domiciled or working in Ohio from moving into the private bar, while at the same time permitting attorneys who are currently members of the Ohio bar to freely move to another state. If Ohio would not allow foreign attorneys to enter the Ohio bar without taking the Ohio bar examination then other states would set up similar barriers to members of the Ohio bar. Thus, Rule I(9) is designed to permit Ohio attorneys to easily emigrate while subsection (e) was

added in order to protect the local bar from competition from corporate and federal attorneys already resident in the state.

To conclude, Respondents and the lower courts have not been able to concoct any competency-related rationale for the existence of Rule I(9)(e) that meets any version of the rational basis test. That Rule is designed solely to restrict competition and is violative of the equal protection clause since it permits some experienced attorneys to be admitted to the bar without taking the bar examination while it arbitrarily and capriciously denies that privilege to others.

Certiorari should be granted.

Respectfully submitted,

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